IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

Thursday, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND Four

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 21818 of 2003

Between:

B. Venkateswarlu S/o. Naidamma
R/o. Baitamanjuluru[v] J Pangaluru [m] Prakasam District

..... PETITIONER

AND

1 The stage of A.P. Rep.by its Principal Secretary Revenue(Endowments-1) Department, Secretariat, Hyderabad
2 Person-in-Management, Sri Venkateswara Swamy Temple, Baitamanjuluru [v] J Pangaluru [m] Prakasam District
3 The Assistant Commissioner of Endowments, Ongole, Prakasam District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the 2nd respondent in proposing to evict me even without notice and proposing to induct third parties into possession without evicting me from the land of Ac.3.00 cents in Sy.No.69 of Baitamanjuluru [v], J.Pangaluru [M] Prakasam District is contrary to the provisions of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act and Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 issued in G.O.Ms.No.379 dated 11.3.2003 and also violative of Article 14 and 19 of the Constitution of India and direct the respondents not to evict me from the possession of said land without following due process of law.

Counsel for the Petitioner: MR.SATYANARAYANA NIMMAGADDA

Counsel for Respondents 1 & 3 : G.P. for Endowments.

Counsel for Respondent No.2: SMT.N.INDRANI, S.C. for Endowments Temples.

The Court made the following Order:

Heard both the counsel and at their request, the writ petition itself is taken up for disposal.

The petitioner claiming to be the tenant of the second respondent filed this writ petition, inter alia, challenging the impugned action of the second respondent herein in seeking to conduct auction and evicting him from the land in survey No.69 of an extent of Ac.3.00, situated at Baitamanjuluru village, J.Panguluru Mandal, as illegal and also contrary to the Provisions of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act and the Rules made thereunder (for short 'the Act') and further not to evict him.

The case of the petitioner in brief is that he has been tenant of the said land and he is paying Makta and the respondents without considering his case as contemplated under Section 82 of the Act, proposed to conduct auction, which is illegal. Hence, the writ petition.

In the counter filed on behalf of the second respondent, the claim of the petition is denied in regard to the possession of the land in question and also his entitlement to the same. Further, it is pointed out that the auction was held in respect of the land in question on 03-10-2003 and the same was confirmed in favour of highest bidder and possession was also delivered. This Court has granted status quo orders on 17-10-2003 in W.P.M.P.No.26961 of 2003, by which date auction was conducted and possession was also delivered to the highest bidder.

Having heard the submissions made on either side and on perusal of the material on record and also in view of the fact that the petitioner is claiming to be the tenant of the land in question, it is not open for this Court to go into the same in exercise of the powers under Article 226 of the Constitution of India. Further, in view of the fact that

the auction was already held and the highest bidder was given possession of the land in question, the petitioner cannot seek any relief. If at all the petitioner makes any application for consideration of his case for purchase of the land in question under Section 82 of the Act, the same will be considered in accordance with law.

Subject to the above, I do not find any merits in the writ petition and the same is accordingly dismissed. The petitioner shall file an application before the concerned authorities of respondents 1 and 3 within a period of four weeks from today and the same shall be disposed of within a period of 2 months thereafter, after giving notice and opportunity to the petitioner and to the concerned, in accordance with law on its own merits. No costs.

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30-09-2004

kdl/stv

To

1 The Principal Secretary, Revenue(Endowments-1) Department, The State of A.P. Secretariat, Hyderabad
2 The Assistant Commissioner of Endowments, Ongole, Prakasam District.

3 Two C.Cs. to the Government Pleader for Endowments, High Court Buildings, A.P. Hyderabad, (OUT).

4 Two C.D.Copies.